

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

Order entered April 26, 2012.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rule 138 is renumbered as Supreme Court Rule 15, Supreme Court Rule 651 is amended, a divisional heading preceding Supreme Court Rules 570 to 579 is adopted, and effective July 1, 2012, Supreme Court Rules 402 and 431 are amended, as follows.

**Renumber Rule**

**Rule ~~138~~ 15. Social Security Numbers in Pleadings and Related Matters.**

(a) Unless otherwise required by law or ordered by the court, parties shall not include Social Security numbers in documents filed with the court, including exhibits thereto, whether filed electronically or in paper. If disclosure of an individual's Social Security number is required for a particular filing, only the last four digits of that number shall be used. The filing must be accompanied by a confidential information form in substantial compliance with the attached **NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**, which shall identify the full Social Security number and shall remain confidential, except as to the parties or as the court may direct.

(b) Neither the court, nor the clerk, will review each pleading for compliance with this rule. If a pleading is filed without redaction, a party or identified person may move the court to order redaction. If the court finds the inclusion of the Social Security number was willful, the court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

(c) This rule does not require any party, attorney, clerk or judicial officer to redact information from a court record that was filed prior to the adoption of this rule; provided, however, that a party may request that a Social Security number be redacted in a matter that preceded the adoption of this rule.

Adopted October 4, 2011, effective January 1, 2012; renumbered April 26, 2012, eff. immediately.

## Amended Rule 402

### Rule 402. Pleas of Guilty or Stipulations Sufficient to Convict

In hearings on pleas of guilty, or in any case in which the defense offers to stipulate that the evidence is sufficient to convict, there must be substantial compliance with the following:

**(a) Admonitions to Defendant.** The court shall not accept a plea of guilty or a stipulation that the evidence is sufficient to convict without first, by addressing the defendant personally in open court, informing him or her of and determining that he or she understands the following:

- (1) the nature of the charge;
- (2) the minimum and maximum sentence prescribed by law, including, when applicable, the penalty to which the defendant may be subjected because of prior convictions or consecutive sentences;
- (3) that the defendant has the right to plead not guilty, or to persist in that plea if it has already been made, or to plead guilty; and
- (4) that if he or she pleads guilty there will not be a trial of any kind, so that by pleading guilty he or she waives the right to a trial by jury and the right to be confronted with the witnesses against him or her; or that by stipulating the evidence is sufficient to convict, he or she waives the right to a trial by jury and the right to be confronted with any witnesses against him or her who have not testified.

**(b) Determining Whether the Plea is Voluntary.** The court shall not accept a plea of guilty without first determining that the plea is voluntary. If the tendered plea is the result of a plea agreement, the agreement shall be stated in open court. The court, by questioning the defendant personally in open court, shall confirm the terms of the plea agreement, or that there is no agreement, and shall determine whether any force or threats or any promises, apart from a plea agreement, were used to obtain the plea.

**(c) Determining Factual Basis for Plea.** The court shall not enter final judgment on a plea of guilty without first determining that there is a factual basis for the plea.

**(d) Plea Discussions and Agreements.** When there is a plea discussion or plea agreement, the following provisions, in addition to the preceding paragraph of this rule, shall apply:

- (1) The trial judge shall not initiate plea discussions. Upon request by the defendant and with the agreement of the prosecutor, the trial judge may participate in plea discussions. Prior to participating in the plea discussions, the trial judge shall admonish the defendant and inquire as to the defendant's understanding of the following:

That the defendant's attorney has requested that the trial judge participate in the conference to determine whether or not the charge(s) which is/are pending against the

defendant can be resolved by a plea of guilty;

That during the course of the conference the prosecutor will be present and advise the judge of the facts of the case as contained in the police reports or conversations with witnesses, that the defendant's attorney will also be present and will advise the judge of any information the defendant may have concerning the circumstances which led to the defendant's arrest in the case.

That without the conference, the judge would not learn about this information unless the case proceeded to trial.

That the judge will also learn whether the defendant has a prior criminal history, his or her driving record, whether the defendant has any alcohol or drug problem, the defendant's work history, family situation, and other things which would bear on what, if any punishment should be imposed upon the defendant as a result of his or her plea of guilty to one or more of these charges.

That these are things that the judge would not learn about unless the case went to trial and the defendant was found guilty.

That at the end of the conference, the judge may make a recommendation as to what an appropriate sentence would be.

That the defendant or the prosecutor is free to accept or reject the judge's recommendation. However, if the defendant rejects the judge's recommendation and he or she wishes to have a trial on the charges, the defendant may not obtain another judge solely on the basis that the judge participated in the conference and is aware of the facts and circumstances surrounding the incident as well as the defendant's background. This means that the defendant will be waiving his or her right to request a substitution of judge based upon the judge's knowledge of the case.

That knowing all of these things the defendant still wishes that the judge participate in this conference.

(2) If a tentative plea agreement has been reached by the parties which contemplates entry of a plea of guilty in the expectation that a specified sentence will be imposed or that other charges before the court will be dismissed, the trial judge may permit, upon request of the parties, the disclosure to him or her of the tentative agreement and the reasons therefor in advance of the tender of the plea. At the same time ~~he~~ the trial judge may also receive, with the consent of the defendant, evidence in aggravation or mitigation. The judge may then indicate to the parties whether he or she will concur in the proposed disposition; and if ~~he~~ the judge has not yet received evidence in aggravation or mitigation, he or she may indicate that his or her concurrence is conditional on that evidence being consistent with the representations made ~~to him~~. If ~~he~~ the judge has indicated his or her concurrence or conditional concurrence, ~~he~~ the judge shall so state in open court at the time the agreement is stated as required by paragraph (b) of this rule. If the defendant thereupon pleads guilty, but the trial judge later withdraws his or her concurrence or conditional concurrence, ~~he~~ the judge shall so advise the parties and then call upon the defendant

either to affirm or to withdraw his or her plea of guilty. If the defendant thereupon withdraws his or her plea, the trial judge shall recuse himself or herself.

(3) If the parties have not sought or the trial judge has declined to give his or her concurrence or conditional concurrence to a plea agreement, ~~he~~ the judge shall inform the defendant in open court at the time the agreement is stated as required by paragraph (b) of this rule that the court is not bound by the plea agreement, and that if the defendant persists in his or her plea the disposition may be different from that contemplated by the plea agreement.

**(e) Transcript.** In cases in which the defendant is charged with a crime punishable by imprisonment in the penitentiary, the proceedings required by this rule to be in open court shall be taken verbatim, and upon order of the trial court transcribed, filed, and made a part of the common law record.

**(f) Plea Discussions, Plea Agreements, Pleas of Guilty Inadmissible Under Certain Circumstances.** If a plea discussion does not result in a plea of guilty, or if a plea of guilty is not accepted or is withdrawn, or if judgment on a plea of guilty is reversed on direct or collateral review, neither the plea discussion nor any resulting agreement, plea, or judgment shall be admissible against the defendant in any criminal proceeding.

Adopted June 26, 1970, effective September 1, 1970; amended effective September 17, 1970; amended January 5, 1981, effective February 1, 1981; amended May 20, 1997, effective July 1, 1997; amended April 26, 2012, eff. July 1, 2012.

## **Amended Rule 431**

### **Rule 431. Voir Dire Examination**

**(a)** The court shall conduct *voir dire* examination of prospective jurors by putting to them questions it thinks appropriate, touching upon their qualifications to serve as jurors in the case at trial. The court may permit the parties to submit additional questions to it for further inquiry if it thinks they are appropriate and shall permit the parties to supplement the examination by such direct inquiry as the court deems proper for a reasonable period of time depending upon the length of examination by the court, the complexity of the case, and the nature of the charges. Questions shall not directly or indirectly concern matters of law or instructions. The court shall acquaint prospective jurors with the general duties and responsibilities of jurors.

**(b)** The court shall ask each potential juror, individually or in a group, whether that juror understands and accepts the following principles: (1) that the defendant is presumed innocent of the charge(s) against him or her; (2) that before a defendant can be convicted the State must prove the defendant guilty beyond a reasonable doubt; (3) that the defendant is not required to offer any evidence on his or her own behalf;

and (4) that ~~the defendant's failure to testify~~ if a defendant does not testify it cannot be held against him or her; however, no inquiry of a prospective juror shall be made into the defendant's ~~failure~~ decision not to testify when the defendant objects.

The court's method of inquiry shall provide each juror an opportunity to respond to specific questions concerning the principles set out in this section.

Renumbered October 1, 1971; amended April 3, 1997, effective May 1, 1997; amended March 21, 2007, effective May 1, 2007; amended April 26, 2012, eff. July 1, 2012.

## **New Article V Heading**

### **PART E. Rules and Procedures for Non-Traffic/Non-Conservation Ordinance Violations**

[Rules 570 to 579 follow]

Adopted April 26, 2012, eff. immediately.

## **Amended Rule 651**

### **Rule 651. Appeals in Post-Conviction Proceedings**

(a) Right of Appeal. An appeal from a final judgment of the circuit court in any post-conviction proceeding involving a judgment imposing a sentence of death shall lie directly to the Supreme Court as a matter of right. All other appeals from such proceedings shall lie to the Appellate Court in the district in which the circuit court is located.

(b) **Notice to Petitioner of Adverse Judgment.** Upon the entry of a judgment adverse to a petitioner in a post-conviction proceeding, the clerk of the trial court shall at once mail or deliver to the petitioner a notice in substantially the following form:

“You are hereby notified that on \_\_\_\_\_ the court entered an order, a copy of which is enclosed herewith. You have a right to appeal. In the case of an appeal from a post-conviction proceeding involving a judgment imposing a sentence of death, the appeal is to the Illinois Supreme Court. In all other cases, the appeal is to the Illinois Appellate Court in the district in which the circuit court is located. If you are indigent, you have a right to a transcript of

the record of the post-conviction proceedings and to the appointment of counsel on appeal, both without cost to you. To preserve your right to appeal you must file a notice of appeal in the trial court within 30 days from the date the order was entered.”

**(c) Record for Indigents; Appointment of Counsel.** Upon the timely filing of a notice of appeal in a post-conviction proceeding, if the trial court determines that the petitioner is indigent, it shall order that a transcript of the record of the post-conviction proceedings, including a transcript of the evidence, if any, be prepared and filed with the clerk of the court to which the appeal is taken and shall appoint counsel on appeal, both without cost to the petitioner. The record filed in that court shall contain a showing, which may be made by the certificate of petitioner’s attorney, that the attorney has consulted with petitioner ~~either~~ by phone, mail, electronic means or in person to ascertain his or her contentions of deprivation of constitutional rights, has examined the record of the proceedings at the trial, and has made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of petitioner’s contentions.

**(d) Procedure.** The procedure for an appeal in a post-conviction proceeding shall be in accordance with the rules governing criminal appeals, as near as may be.

Amended effective January 1, 1969; amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended November 30, 1984, effective December 1, 1984; amended April 26, 2012, eff. immediately.